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Attorneys for Plaintiffs JAMES SILLS and CLEAR DEMAND,  
INC.

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

JAMES SILLS, an individual, and  
CLEAR DEMAND, INC., a  
Delaware corporation, and

Plaintiffs,

v.

REVIONICS, INC., a Delaware  
corporation,

Defendant.

REVIONICS, INC.,

Counterclaimant,

v.

JAMES SILLS, an individual, and  
CLEAR DEMAND, INC., a  
Delaware corporation,

Counterdefendants.

Case No. CV12-03102-JSW

**STIPULATION AND ~~PROPOSED~~ ORDER  
OF DISMISSAL AND FILING OF  
COMPLAINT IN SANTA CLARA  
SUPERIOR COURT**

1           **WHEREAS**, on June 15, 2012 Plaintiffs/Counterdefendants James Sills and Clear  
 2 Demand, Inc. filed a Complaint in this Court which seeks declaratory relief and asserts a  
 3 claim of unfair competition against Defendant/Counterclaimant Revionics,  
 4 Inc. (“**Revionics**”);

5           **WHEREAS**, the Complaint alleged federal question jurisdiction under 28 U.S.C.  
 6 Section 2201 *et seq.* on the basis of a draft complaint by Revionics which alleged a claim  
 7 under the federal Computer Fraud and Abuse Act (18 U.S.C. Section 1030 *et seq.*)(the  
 8 “**CFAA Claim**”);

9           **WHEREAS**, on June 22, 2012, Revionics filed its Answer to the Complaint and  
 10 asserted eleven counterclaims against Sills and Clear Demand (collectively  
 11 Plaintiffs’/Counterdefendants’ Complaint and Defendant/Counterclaimant’s  
 12 Answer/Counterclaims hereinafter referred to as the “**Action**”);

13           **WHEREAS**, the counterclaims alleged by Revionics in this Action do not include a  
 14 CFAA Claim;

15           **WHEREAS**, the Parties therefore agree that on the basis of the current pleadings in  
 16 this Action, this Court does not have subject matter jurisdiction over the Action because  
 17 there is no federal question jurisdiction under 28 U.S.C. § 1331, and there is no diversity  
 18 jurisdiction under 28 U.S.C. § 1332 because Revionics and Clear Demand are both  
 19 incorporated in Delaware, and therefore are citizens of the same state;

20           **WHEREAS**, the Superior Court of California has jurisdiction over all causes of  
 21 action asserted in the Action pursuant to California Constitution, Article VI, § 10 and  
 22 California Code of Civil Procedure § 410.10. By filing the Complaint in this Court, Sills  
 23 and Clear Demand have submitted to the Superior Court of California’s personal  
 24 jurisdiction in any related action. The Superior Court of California also has personal  
 25 jurisdiction over Sills because under Sills’ Employee Nondisclosure and Assignment  
 26 Agreement with Revionics, Sills expressly consented to the personal jurisdiction of the  
 27 state courts located in California;  
 28

1           **NOW, THEREFORE**, Plaintiffs/Counterdefendants Sills and Clear Demand and  
2 Defendant/Counterclaimant Revionics (collectively, the “**Parties**”) jointly request and  
3 stipulate to the entry of an Order providing that:

4           1.       The Action in this Court be dismissed without prejudice.

5           2.       Plaintiffs/Counterdefendants will file their Complaint against Revionics in  
6 the Superior Court of California, County of Santa Clara (the “**Superior Court**  
7 **Complaint**”) promptly after receiving notice that this Court has dismissed this Action.  
8 Revionics’ counsel shall accept service of the Superior Court Complaint on behalf of  
9 Revionics.

10          3.       The Parties consent to the jurisdiction of the Superior Court of California,  
11 County of Santa Clara and agree that this is the proper venue for this matter.

12          4.       Revionics will file its Answer and Cross-complaint to the Superior Court  
13 Complaint shortly after service of the Complaint, and in no event later than the statutory  
14 time limit. Counsel for Plaintiffs/Cross-defendants will accept service of the Answer and  
15 Cross-complaint on behalf of Plaintiffs/Cross-defendants.

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5. Plaintiffs/Cross-defendants will file their response to Revionics' Answer and Cross-complaint on August 13, 2012, or or within ten days of service of the Cross-complaint, whichever is later.

6. Neither party will recover its costs or fees in this federal court Action.

SO STIPULATED:

Date: June 28, 2012

Date: June 28, 2012

SHUMAN SNYDER LLP

COOLEY LLP

By: /S/  
JEFFREY A. SNYDER  
LISA PLANK

By: /S/  
GREGORY C. TENHOFF

Attorneys for Plaintiffs/  
Counterdefendants JAMES SILLS and  
CLEAR DEMAND, INC.

Attorneys for Defendant/Counterclaimant  
REVIONICS, INC.

*I, Gregory Tenhoff, am the ECF User whose  
ID and password are being used to file this  
Joint Stipulation. In compliance with General  
Order 45.X.B., I hereby attest that Lisa Plank  
has concurred in this filing.*

**ORDER**

IT IS SO ORDERED:

  
Honorable Jeffrey S. White  
United States District Court Judge

Date: July 2, 2012